John D. Larson
Manager, Criminal Justice, Outpatient and Homeless Services
Santa Clara Valley Health and Hospital System

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INTRODUCTION

The passage of Prop 36 represented a sea change in the attitudes of California voters toward drug addiction. The public clearly told the policy makers that they wanted the non-violent drug offenders who were filling California jails and prisons provided with treatment not incarceration. Partly for economic reasons, partly for humanitarian reasons, they were no longer willing to accept the seemingly unlimited expansion of a correctional system (already the country's largest) that did nothing to address the underlying problem of addiction.

The implementation of Prop 36 was left to treatment providers who had mainly supported it and to the Courts and other justice system agencies who almost unanimously opposed it. Given this, the unprecedented degree of cooperation between the two systems that emerged from the beginning was remarkable. While Prop 36 was implemented differently in all 58 counties (as the proponents intended), almost everywhere the process was carried out with respect for the spirit of the proposition and the 60%+ of California voters who had supported it.

Preliminary results from Santa Clara County evidence achievement of the basic goals of the proposition: the jail population is down 7% since July and the population in treatment has increased by over 10%. Further research will show, I believe, that this has been accomplished with no increase in the general crime rate or in public safety due to increased drug use or sales despite the mixed outcomes of those referred to treatment.

Finally, one of the most controversial aspects of the proposition was the feared effect on Drug Treatment Courts (DTC). In Santa Clara County, the DTC has maintained a stable census while the drug treatment court model, as modified to meet the much greater number of participants, has served as the basis for the implementation of Prop 36.

IMPLEMENTATION IN SANTA CLARA COUNTY

Alcohol/drug treatment systems vary from county to county but the system in Santa Clara County is unique. Under the leadership of its Director, Bob Garner, the Department of Alcohol and Drug Services (DADS) has created a centralized system of care managed by DADS. Begun five years ago, the department has combined principles of effective treatment with those of managed care omitting the drive to maximize profits by denying services. This design, which has helped professionalize the treatment system in Santa Clara County and has general applicability, is based on a few key elements:

1. Assessment. Assessments should be performed by Alcohol/Drug professionals using standardized instruments. Validated instruments based on the Addiction Severity Index (ASI) and the American Society of Addiction Medicine (ASAM) are readily available and essential for the subsequent tracking of treatment outcomes. Without a real assessment up front, there can never be a subsequent evaluation of the impact of the intervention.
2. Placement. Placement decisions should be made using accepted standards such as the ASAM Patient Placement Criteria II (PPC II). It should no longer be acceptable for programs to apply their homegrown standards that almost inevitably determine that all clients showing up at their doors need the services they offer unless the clients are dually diagnosed, in which case they are determined to not be appropriate for the available services.
3. Continuum of Care. A full continuum of services are needed including detox, residential, outpatient, intensive outpatient, methadone and other medication based therapies, perinatal, and harm reduction. Alcohol/drug problems manifest in many shapes and sizes and clients suffering from them need a wide range of services. The narrower the range of services, the more clients will either be shunted into services which do not offer the best hope for recovery or kept in services for longer than they need be because more appropriate services are not available. To cite one obvious example, heroin addicts should be offered methadone maintenance, a therapy which has better demonstrated results than any other modality, and yet remains controversial for other reasons.
4. Ancillary Services. One of the brainstorms of the Prop 36 proponents was to include funding for ancillary services. Sober Living Environments, Literacy, Vocational, Childcare, Housing Support etc. are needed to support client retention and success in treatment. Without them, treatment outcomes will be sharply limited.
5. Special Services for Dual Diagnosis Clients. Dual diagnosis clients present one of the most difficult challenges to our system. In Santa Clara County, DADS negotiated a Memorandum of Understanding with the Department of Mental Health that defines four categories of Dual Diagnosis clients (based on the Minkoff Model) and assigns primary responsibility to DADS or Mental Health for serving each category. This has led to DADS hiring a psychiatrist and providing funding for subsidized psychotropic medications for clients meeting our criteria.

REMAINING IMPLEMENTATION ISSUES

1. In Santa Clara County (as in most counties), funding is insufficient to provide needed levels of residential and outpatient services. This results in waiting lists which negatively impact rates of client enrollment - the longer the wait, the higher the drop-out rate.
2. NIMBY issues have exacerbated the shortage of residential beds. Despite issuing three RFPs for residential beds, we have received bids for only a fraction of the funding offered. The main reason given by potential providers was the difficulty of finding a suitable location that would pass zoning and other requirements.

3. The Department of Mental Health is overextended and unable to provide timely services to Seriously Mentally Ill (SMI) clients. Since many of these clients are not stable, they are difficult to place in AOD services, difficult to treat when they are placed, and likely to drop out of treatment before completion. A further consequence of this shortage is the pressure on staff in AOD treatment and recovery programs to treat clients for whom they lack professional qualifications and back-up resources.

SUCCESSES

1. The collaboration between treatment and justice system agencies. This now extends beyond Prop 36 to other criminal justice referred clients.
2. The development of innovative resources to treat Prop 36 offenders. Treatment providers were determined to make Prop 36 succeed and concerned from the beginning about whether clients would remain in treatment given the advertised lack of consequences for non-participation compared to other criminal justice referrals. In Santa Clara County, this resulted in the development of a number of services new to our continuum of care.
   Orientation is designed to explain to clients the benefits of Prop 36 legally and the opportunities offered in terms of treatment and other supportive services.
   Psychoeducation offers clients without an assessed alcohol/drug disorder the opportunity to learn more about alcohol and drug issues without being required to participate in treatment.
   Motivational Enhancement Track (MET) offers clients on waiting lists or those who have failed previous attempt to engage in outpatient a chance to participate in a structured motivational experience.
   Intensive Outpatient Programs (IOP) provide a step-up service for clients needing more than the limited contacts offered in outpatient and/or a step-down for clients who do not need the intensive support of residential programs.
   Case Management provides on-going intensive support to clients referred by the assessors, by the Court, by Probation, or by the treatment program for clients defined as high-risk and unlikely to complete treatment.
   Aftercare Education offers two different modalities of aftercare (Health Realization and Traditional) to clients who have completed treatment but need ongoing refresher courses and support.
3. The impact beyond SACPA. Total criminal justice referrals have increased since SACPA was implemented in July 2001. We believe that this is partly due to the increase from two to nine in courts operating on the drug treatment court model. These new referrals include clients who never qualified for SACPA as well as those who have exhausted their SACPA chances.
4. The heightened level of accountability for 36 planning and data and fiscal reporting has, while imposing a burden on the county, also led to significant improvements in data collection instruments and processes. Reconciling criminal justice data (e.g. the number of 36 offenders referred to treatment) to

treatment system data (i.e. clients tracked in CADDS) is challenging under the best of circumstances. Having our department report to a separate lead agency (i.e. the County Executive) has added pressure to this task. Internally, this has led to changes in increased monitoring of data entry at the provider level, and the development of intentionally redundant procedures to assure accuracy in assessment, placement and service tracking functions.

RECOMMENDATIONS

1. If Prop 36 demonstrates improved outcomes for some of the clients referred to treatment with no negative effects on public safety, consideration should be given to expanding its scope to include all drug-related non-violent offenses. Petty theft and prostitution are typical offenses committed by drug users who would benefit from the opportunity to participate in treatment.
2. Assure continued funding of SACPA after five years and increase the funding to cover the services needed. Some counties are already squirreling funds away to cover the potential non-renewal of SACPA funding. This outcome shortchanges voters who believe that these funds are being invested in treatment and increases the chances that SACPA will be unable to demonstrate positive benefits. DADP's own research, the CALDATA study demonstrated a 7 to 1 payback on dollars invested in treatment so the basis for expanding treatment funding certainly exists.
3. Redistribute funds from custodial facilities which have or will experience a drop in census due to these policies. In Santa Clara County, the Jail has experienced a 7% drop in census since July. While not all of this may be attributable to Prop 36, there needs to be a trade-off established between more successful drug policies and decreased costs elsewhere in the system.
   NOTE: One of the challenges of funding addiction treatment has been that the major cost offsets occur in other systems. Because alcohol/drug treatment itself is not expensive, the expansion or enhancement of treatment may lead to savings in the criminal justice system, in the health services industry, in the child dependency system etc. but not in the AOD treatment system itself.
4. Implement a process to redistribute SACPA funding from counties which continually underspend their annual allocations. This is standard practice in many State funded programs.
5. Have California opt out of the policy barring convicted drug felons from receiving federal benefits or participating in federal programs. This would increase the range of free supportive or ancillary services available to Prop 36 offenders including subsidized housing, educational and vocational programs.
6. Increase the State match for Drug Medicaid to maximize federal dollars. If California followed the lead of states like New York and Massachusetts, it would bring in tens of millions of additional dollars which could be used to expand and enhance services.

I appreciate the opportunity to share these ideas with you. Prop 36 may well represent a milestone in how drug cases are handled by the courts and drug offenders perceived by society. It is a welcome antidote to the punitive, inhumane, and wasteful policies of the War on Drugs. Let us not forget that the initiative for Prop 36 came from concerned citizens and was supported by a wide spectrum of California citizens despite vocal opposition. As policy makers, the least we can do is to build on the momentum that has been created and use our skill, experience, and resources to continue building a society in which drug abuse/addiction is treated like a public health problem and not like a crime.